

RD AN No. 3585 (2051-F)  
November 14, 2000

SUBJECT: Rural Development Instruction 2051-F, Hours of Duty

TO: National Office Officials  
Rural Development State Directors

PURPOSE/INTENDED OUTCOME:

The new Rural Development Instruction 2051-F was issued May 31, 2000, via a Special Procedure Notice (SPN). As with any change of this magnitude, there have been a number of questions about interpretation. Human Resources has been responding to individual questions and has compiled those of general interest in the attached Q&A document. Two of the most significant issues are addressed immediately below.

IMPLEMENTATION RESPONSIBILITIES

**Issue 1. Can organizations choose to limit employee options on an across-the-board basis? For example, can a State decide that no one in the State will be allowed to work a compressed work schedule (CWS) of 4 10-hour days per week or that no one will be allowed to work 10-hour days on Maxiflex?**

The intent of the instruction was not to set outer limits of flexibilities that individual States or organizations may choose to adopt or reject. Rather, it offers options available to all eligible employees unless individual circumstances prevent granting an employee's choice. The best discussion of this is on page 9 of the handbook. In the *Supervisory Responsibility* section, the handbook states, "Supervisors are responsible for determining whether conditions such as office coverage may restrict certain positions from full participation in one of the work schedules...When a supervisor cannot honor an employee's request because of lack of office coverage, the supervisor will discuss the issues with the employee(s) involved to reach a mutually acceptable alternative schedule." There is no discussion in the instruction and handbook about across-the-board limits to employee options. States or organizations that have issued such policies must rescind them, unless they are the product of union negotiations, and make individual determinations concerning requested schedules. This may well result in an employee in one office being allowed to work a particular schedule while an employee in another office is not. While we understand this could cause some friction, it is appropriate as long as there are business reasons for the different treatment. The alternative would deny flexibilities to employees whose work environment can accommodate them.

EXPIRATION DATE:  
November 30, 2001

FILING INSTRUCTIONS:  
Preceding RD Instruction 2051-F

## **Issue 2. What happens to the established work schedule when an employee travels or attends training?**

This is the most-asked question, and by far the most difficult to answer. There are many variables that cannot be addressed in policy. A good deal of common sense will need to be applied consistently along with the answer that follows. Many periods of travel or training are of short duration and can be accommodated without changing an employee's Maxiflex, Flexitour, or Compressed Work Schedule. For example, an employee on CWS has a work schedule during the first week of a pay period of Tuesday through Friday, 7:30 a.m. to 5:00 p.m., and is scheduled to attend training in or near the office on Tuesday and Wednesday from 9:00 a.m. to 4:30 p.m. The employee can keep the established work schedule because the employee can report to work before the training begins and return after the training ends to work the full tour of duty.

But what happens when training or travel prevents an employee from working the established tour? Question 24 in Exhibit A of the instruction relates to this issue. The question is, "Does an employee need to adjust their schedule in order to accommodate scheduled training?" The answer is, "Yes," without any elaboration. What this means is that employees generally will need to adjust their work schedules whenever training or travel prevents them from working their established tours, regardless of the number of days involved and regardless of the type of work schedule they have chosen. Employees who do not adjust their work schedules for training or travel will need to take leave for the time their training and travel fall short of their scheduled tour. If feasible, and approved in advance by the supervisor, employees also could take work with them and perform it before or after the training. Let's look at what all of this means for each of the three work schedule options.

Maxiflex employees who cannot accommodate training or travel in their established work schedules have two options. They will have to either adjust their work schedules for the period of training or travel, or take leave for the time their training or travel falls short of their scheduled tour. This applies no matter what the length of the training/travel. For example, a Maxiflex employee has a work schedule of Monday through Thursday, 7:00 a.m. to 5:30 p.m., and is scheduled to attend training away from the office from Monday through Wednesday, 8:00 a.m. to 4:30 p.m. This employee must either adjust his/her work schedule to make up the difference in hours (2 hours per day, for a total of 6 hours) on other days within the same pay period as the scheduled training, or take leave for those 6 hours. Similar adjustments will need to be made if employees' travel assignments cannot accommodate their desired schedule. Depending on what types of leave employees have to their credit, they may choose annual leave, compensatory time off, or credit hours.

CWS employees who cannot accommodate training or travel in their established work schedules have two options. They will have to either come off of their CWS for the full pay period or periods involved, or take leave for the time their training or travel falls short of their scheduled tour. This applies even if the training or travel assignment is only for one day. (This is different from Rural Development Instruction 2051-G, Hours of Duty, Flexitime, and Compressed Work Schedules. Unless an alternative has been negotiated, Instruction 2051-G still applies to bargaining unit employees represented by unions.) With supervisory approval, employees can maintain their CWS but take leave for the number of hours they fall short of working in their established schedule. CWS employees could take annual leave or

compensatory time off. They are not eligible to earn credit hours. When employees come off of CWS for the period of training or travel, their hours of work will be handled the same as Maxiflex employees, as discussed above. Employee adjustments to meet training or travel requirements will not count toward the four-per-year limit of changes to CWS.

Flexitour employees work 8-hour days five days a week. The primary adjustment they may need to make is to change their starting time to conform with training or other work requirements. Such adjustments would not count toward the four-per-year limit of changes in schedule. If training does not last 8 hours, however, employees on Flexitour also will need to account for the shortage by taking leave, compensatory time off, or credit hours.

Please also note:

- Whether on CWS, Flexitour, or Maxiflex, employees attending on-site training are expected to report and return to the work site to work their full tour of duty, or take approved leave, credit hours, or compensatory time.
- Because lunch periods vary considerably and tend to be unpredictable at training, employees will not need to account for lunches longer than their regularly scheduled times.
- Current Rural Development Instruction 2066-A, 2066.12(m), and the draft leave common policy permit an employee to be excused up to 2 hours without charge to leave before or after travel status if the time of departure or arrival makes reporting to the office impractical.
- If you have applied a different interpretation to this question prior to this letter, there is no need to make any retroactive adjustments. Several interpretations are possible. Rural Development has decided to adopt the one above, and apply it prospectively. If you believe a different interpretation is preferable, let us know. Until further notice, however, you should use this one.

Managers are reminded that application of the instruction and this guidance is subject to negotiation for bargaining units of organizations with unions. If you have additional questions or suggestions, please contact your servicing personnel specialist.

*(Signed by Diana Shermeyer) for*

TIMOTHY J. RYAN  
Assistant Administrator  
Human Resources

Attachment

Sent on November 16, 2000, by Human Resources at 11:39 a.m. by electronic mail.

## **RURAL DEVELOPMENT INSTRUCTION 2051-F**

### **HOURS OF DUTY**

#### **Q'S AND A's – VOLUME I**

#### **TOUR OF DUTY**

**Q 1: The instruction references changes to CWS (Compressed Work Schedule) and FWS (Flexible Work Schedule) Flexitour being no more than 4 times in a year – is that calendar year, fiscal year, or a year from an employee's selection of a work schedule?**

**A1:** The policy and handbook do not define “year” in this context. According to the authors of the policy, the intended definition is a year from the selection of the work schedule.

**Q2: Are employees who work a CWS schedule of four 10-hour days a week entitled to 10 hours on a holiday?**

**A2:** Yes. Make sure, however, that they actually are working a true CWS, rather than a Maxiflex schedule that mirrors CWS. Employees on an FWS receive only 8 hours for a holiday.

**Q3: What are the limits within which an employee must complete his or her basic work requirement?**

**A3:** Each employee must complete the basic biweekly work requirement (80 hours for full-time and less than 80 hours for part-time employees) from Monday through Friday, 6:00 a.m. to 6:00 p.m. The only exception to these limits that can be made is for attendance at night meetings Monday through Friday between 6:00 p.m. and midnight. (See Q5, Q6, and Q8 for more information on night meetings.)

Neither management nor an employee can change a work schedule to complete the basic work requirement on Saturday or Sunday. A Tuesday-Saturday schedule, for example, is not allowed. With the night meeting exception above, neither management nor the employee can change a schedule to complete the basic work requirement between 6:00 p.m. and 6:00 a.m.

**Q4: How do we account for an employee's time when s/he reports on the AD-2002 form that s/he started work 5 minutes prior to scheduled reporting time and stayed 5 minutes later, and is [FLSA] non-exempt?**

**A4:** If on Maxiflex, there is no suffered or permitted overtime. The extra 10 minutes would not be overtime. Even if the employee received supervisory approval to work credit hours, there would be no credit since the employee did not work at least 15 minutes. (*Although not specifically stated, we do not believe rounding up is appropriate for credit hours.*) If the employee did not receive supervisory approval to work credit hours, there also would be no credit. In each case, the additional 10 minutes would not be compensable in any form. If, as in the question, the employee signs in 5 minutes before the scheduled starting time, he/she may adjust the quitting time and sign out 5 minutes earlier. An employee on Maxiflex is permitted to change his/her starting times daily within the established flexible hours of 6:00 a.m. to 9:00 a.m.

If on Flexitour, there is no suffered or permitted overtime. Employees on Flexitour also have a fixed starting and ending time. Even if the employee received supervisory approval to work credit hours, reporting 5 minutes earlier than the starting time and working 5 minutes later would not count as credit hours on either end of the day because they are less than 15 minutes. If the employee did not receive supervisory approval to work credit hours, there also would be no credit.

If on CWS, the extra 10 minutes could be counted as hours of work if the definition of suffered and permitted overtime was met (i.e., supervisory knowledge and opportunity to prevent). The 10 minutes would be rounded up and the employee would be credited with one-quarter hour additional hours of work.

Employees have responsibilities as well as rights. Specifically, employees are responsible for choosing a biweekly schedule and submitting it in writing to their supervisors for approval. They are also responsible for selecting a starting time each day; however, Maxiflex employees have the flexibility of minute-by-minute recording of starting and quitting times. CWS and Flexitour employees have fixed starting and ending times and are responsible for adhering to their requested times.

**Q5: Can we approve a tour of duty that does not cover the core hours, e.g., change tour for a night meeting?**

**A5:** Yes. Under Maxiflex, supervisors may change the tour of duty to end not later than midnight for days when employees are required to attend night meetings. Night differential will apply to hours worked after 6:00 p.m. when the supervisor initiates the change in work schedule.

## **CREDIT HOURS**

**Q6: When can an employee on Maxiflex or Flexitour earn credit hours?**

**A6:** Earning credit hours is directly tied to the limits of the tour of duty. Employees can earn credit hours only from Monday through Friday, 6:00 a.m. to 6:00 p.m., with one exception. Employees also can earn credit hours, with supervisory approval, for voluntary attendance at night meetings between 6:00 p.m. and midnight. In this situation, however, the credit hours

may be earned only for the actual meeting, not the travel time to and from the meeting. Employees cannot earn credit hours on Saturday or Sunday or, with the exception above, between 6:00 p.m. and 6:00 a.m. because these days and hours are outside the limits set to complete the basic work requirement. Also, the total credit hours and regular tour of duty cannot exceed 12 hours in a day

**Q7: Under the 2051-F policy, can leave and credit time be used in 15-minute increments?**

**A7:** Yes. Employees may earn credit hours in 15-minute increments. As a result, employees may use credit hours in 15-minute increments. Employees also may use leave in 15-minute increments. Leave usage will be addressed specifically when the draft common policy is final and issued.

**Q8: Page 6(e) states that credit hours can be earned to attend night meetings after 6 p.m. with supervisory approval. Can we also authorize credit hours for special work projects after 6 p.m.?**

**A8:** No. The instruction is specific on this issue. The only time credit hours can be earned after 6:00 p.m. is to voluntarily attend night meetings, with prior supervisory approval. (See page 11 of Exhibit A.) In the scenario you set only compensatory time or overtime could be approved.

**Q9: Supervisor concurrence for credit hours: Does this require prior written approval similar to compensatory time approval? Wouldn't the supervisor's initials on the AD-2002 imply concurrence?**

**A9:** The instruction does not state how approval of credit hours must be communicated. Written approval is not required. What is more important is that it is requested by the employee and has prior supervisory approval, either written or verbal. The supervisor's initials on the AD-2002 would be sufficient as concurrence as long as it was approved prior to the credit hours being worked. Also, we are willing to share a form developed in St. Louis, RD Form 300-62, Request To Earn Credit Hours, that can be used for concurrence and to track credit hours earned.

**Q10: Can you explain the conflict between our reading of the OPM Handbook on Alternative Work Schedules under Flexitour for no credit hours vs. RD Instruction 2051-F which says credit hours can be earned under Flexitour?**

**A10:** The OPM Handbook and RD Instruction 2051-F are consistent in that credit hours may be earned by employees on the two FWS programs offered by our agency, Maxiflex and Flexitour. OPM also allows agencies to implement FWS programs that do not permit credit hours.

## **REGULAR TIME (“01” Time and Attendance Reporting)**

### **Q11: Do we earn 80 hours of “01” work time before we earn credit hours?**

**A11:** No. Though this is not directly covered in the policy or handbook, our interpretation is that employees eligible for credit hours may earn them at any time during the pay period. This seems to be in line with the description of credit hours at 3.b.(4)e. of the instruction. Employees on a flexible work schedule must submit a biweekly work schedule for supervisory approval. This establishes the number of hours scheduled to be worked each day. If the employee, with supervisory concurrence, voluntarily works time in excess of the regular schedule, this time would be credit hours, even if the employee has not yet worked 80 hours in a pay period. For example, let’s say an employee is scheduled to work seven hours on the first day of a pay period, but, with supervisory approval, actually works nine. The employee would earn two credit hours in addition to the seven hours “01” time.

### **Q12: On the new form AD-2002, where do we account for the “01” time? Are we required to use this form or may we use our own version?**

**A12:** Form AD-2002 was intended to be used as a “sign in/out” sheet. The use of this form is optional; you may use it as is or modify it to suit your needs. Also, we are willing to share a form developed in St. Louis, Form FmHA 300-60, PC-TARE Worksheet. We understand that States and other organizations that choose to use an alternate form will not be required to seek approval.

We do have a model available, compliments of Barbara Larson, HRM of Utah. It is an Excel worksheet and, according to Barbara, the directions for its use are pretty simple. She also provided a completed worksheet. If anyone is interested, please email Pam Seiferd at [pamela.seiferd@stl.rural.usda.gov](mailto:pamela.seiferd@stl.rural.usda.gov) and she will email the package to you.

## **MISCELLANEOUS**

### **Q13: An FWS employee working a 7:30 a.m. to 4:00 p.m. tour of duty was in travel status until 6 p.m. Since this is between 6 a.m. and 6 p.m., is it just regular hours of work?**

**A13:** We recommend that you call your servicing personnel specialist if you have a specific situation that appears similar to this. From this question, we are only able to clearly identify that the employee has, on the day of the travel in question, an 8-hour scheduled workday. As such, the 2 hours of travel are not part of the employee's regular work schedule for that day.

However, a more complete answer to this question, including suggestions on how to handle similar future situations, requires more detailed information about the employee's work

schedule and travel purpose. Overtime, compensatory time, work schedule adjustments, and/or FLSA issues could also be involved. There are many variables that could affect such a situation.

**Q14: Can State Directors have FWS or CWS tours?**

**A14:** The policy and handbook do not address this, but it is the White House Liaison Office's policy that State Directors cannot use the Compressed, Maxiflex, or Flexitour work schedule options. State Directors also cannot earn credit hours. The standard work schedule for State Directors is 8:00 a.m.– 4:30 p.m. State Directors may request limited, short-term changes in tours of duty in response to family matters or other specific situations. For example, they may request to change their work schedule temporarily to 7:30 a.m.– 4:00 p.m., 8:30 a.m. – 5:00 p.m., etc.

**Q15: 2051-F (page 7) lists two handbooks as references, the USDA and OPM Handbooks on Alternative Work Schedules. Where can I find these handbooks?**

**A15:** The reference of USDA Handbook on Alternative Work Schedules should be titled USDA Family-Friendly Workplace Guide. This guide includes numerous topics, including a section of about eight pages on alternative work schedules. You can find this guide at [www.usda.gov/da/employ/ffwg.htm](http://www.usda.gov/da/employ/ffwg.htm).

You can download the complete 35-page OPM Handbook on Alternative Work Schedules, dated December 1996, from [www.opm.gov/oca/aws](http://www.opm.gov/oca/aws). We have found this handbook to be well organized and a useful reference tool.